

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	8:03CR415
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
JOHN MICHAEL KIRBY,)	
)	
Defendant.)	

Before the court is the government's motion for Rule 35(b) hearing. Filing No. 36. Having considered the matter,

IT IS ORDERED that:

1. A hearing on the government's Rule 35 motion is scheduled for hearing before the undersigned on **October 6, 2006 at 10:00 a.m.** in Courtroom No. 3, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska.

2. Counsel for the defendant, if previously appointed pursuant to the Criminal Justice Act, is reappointed to represent the defendant for purposes of the Rule 35(b) motion. If retained, counsel for the defendant remains as counsel for the defendant until the Rule 35(b) motion is resolved or until given leave to withdraw.

3. At the request of the defendant through his counsel, and with the agreement of the government, the defendant may be absent from the hearing on the Rule 35 motion.

4. The Marshal will not return the defendant to the district, and the defendant is held to have waived his right to be present. If the defendant wishes to participate telephonically in the hearing, his attorney must notify chambers at least 24 hours before the hearing of the telephone number and contact person at the institution which defendant is incarcerated.

DATED this 12th day of September, 2006.

BY THE COURT:

s/ Joseph F. Bataillon
JOSEPH F. BATAILLON
United States District Judge